

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICIA PAUL,

Plaintiff,

Case No. 14-CV-12484

vs.

HON. GEORGE CARAM STEEH

CSK AUTO, INC., et al.,

Defendants.

_____/

ORDER DENYING PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND DENYING REQUEST TO
PRECLUDE DEFENDANTS FROM USING DOCUMENTS, WITH CONDITIONS [# 17]

A telephone conference was held by the court on plaintiff's motion to strike defendants' motion for summary judgment on the basis that defendants failed to seek concurrence before filing their motion, as required by Local Rule 7.1. The court admonished defendants' counsel regarding compliance with the local rules requiring request for concurrence before filing motions. The purpose of the local rule requiring parties to seek concurrence prior to filing motions is to avoid the needless spending of time and resources by the parties and the court on a motion that is not disputed. In this case, plaintiff has filed a responsive brief to defendants' motion for summary judgment in which she disputes the relief requested. While it is true that defendants did not comply with Local Rule 7.1(a), the failure to seek concurrence did not result in any harm or prejudice to plaintiff. The court therefore denies plaintiff's motion to strike.

Plaintiff next requests that defendants be precluded from using certain documents included as exhibits to their motion for summary judgment because such

documents were not produced during discovery. Fed. R. Civ. P. 37(c) states that a party who fails to provide information in the course of discovery “is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at trial, unless the failure was substantially justified or is harmless.”

Exhibit 5 is a Leave of Absence Log for plaintiff. The court was advised by the parties that the dispute regarding the Leave of Absence Log is moot given the plaintiff's intention to dismiss the FMLA claim.

Inasmuch as Exhibit 8, the Productivity Log, was not directly sought by plaintiff in her discovery requests, and that potential prejudice can be resolved by further discovery in relation to the exhibit, the court denies the motion to strike. However, the court will allow plaintiff to conduct further discovery as discussed in relation to the exhibit.

Dated: June 4, 2015

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
June 4, 2015, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk